



STATE BOARD OF EQUALIZATION

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No. 84/97

October 5, 1984

TO COUNTY ASSESSORS:

SEISMIC SAFETY EXCLUSION FROM NEW CONSTRUCTION

In the primary election held June 5, 1984, the voters of California approved ballot Proposition 23. This measure, which was introduced in the Senate as SCA 14, was filed as Resolution Chapter 2 with the Secretary of State on January 20, 1984. The purpose of this letter is to explain the provisions of SCA 14 and its companion implementing legislation Senate Bill 521, which was approved by the Governor on September 28, 1983, as Chapter 1187 of the Statutes of 1983. This enabling legislation had an effective date of January 1, 1984.

SCA 14

This constitutional amendment modifies Section 2(a) of Article XIII A by adding the following sentence to it:

Also, the term "newly constructed" shall not include the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement.

Thus, required earthquake-related building rehabilitation of a structure having unreinforced masonry bearing walls, when it is done because it was required by local ordinance, will, in effect, receive a 15-year exemption from property taxation.

SB 521

The provisions of this act apply to qualifying reconstruction, as defined, that commences or is completed on or after January 1, 1984. This bill adds subdivision (d) to Section 70 of the Revenue and Taxation Code. This subdivision is further divided into three parts, which will be individually considered.

Section 70(d)(1) provides that locally mandated building improvement or reconstruction related to seismic safety and required for unreinforced masonry-walled structures will be excluded from new construction for 15 years following the commencement or completion of the reconstruction. If the property changes ownership during that period, a new base year value must be established and enrolled for the entire property.

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Section 70(d)(2) requires the assessor to enroll the excluded property at its current full cash value in the sixteenth year following reconstruction or improvement. This means that qualifying reconstruction will be exempted from assessment in the first tax year in which it exists, whether as construction in progress or as completed work, and the following 14 tax years. It becomes taxable in the sixteenth tax year following the tax year in which the reconstruction or improvement was begun.

Section 70(d)(3) limits the application of this exclusion to a structure:

(1) that has been rehabilitated pursuant to the requirements of a local seismic safety ordinance;

(2) that has been certified as such by the local agency that required the reconstruction;

(3) whose owner has filed such a certificate with the county assessor by April 15 following the completion of reconstruction or improvement.

The following questions and answers should clarify the application of this constitutional amendment and its implementing legislation.

QUESTION 1: How should the 15-year period be calculated for purposes of applying this exclusion?

ANSWER 1: Three examples will illustrate the application of this exclusion.

Example 1. Qualifying reconstruction is begun in May, 1984 and completed in November, 1984. This situation would ordinarily require supplemental assessment on the 1984-85 roll, so 1984-85 is the first year of exclusion. The exclusion would continue through fiscal year 1998-1999. The assessor would then determine the current full cash value of the previously excluded portion as of March 1, 1999, and add this amount to the factored base year value of the property for the roll for the 1999-2000 fiscal year.

Example 2. Qualifying reconstruction is begun in June, 1984 and is completed in April, 1985. This timing would otherwise result in the work being assessed on the 1985-86 roll as construction in progress, with supplemental assessments required upon completion for the 1984-85 and 1985-86 rolls. Therefore, the earliest roll to which the exclusion could be applied is the 1984-85 roll. The exclusion would continue through the roll for the 1998-1999 fiscal year.

Example 3. Qualifying reconstruction is begun in February, 1985, and is completed in October, 1985. There would otherwise be a partial assessment of the construction in progress on March 1, 1985, for the 1985-86 roll, followed by a

supplemental assessment upon completion for the balance of fiscal year 1985-86. The first year of exclusion is 1985-86. The portion of reconstruction or improvement so excluded becomes taxable for the 2000-2001 tax roll.

QUESTION 2: Should construction in progress on the lien date be excluded if it is work necessary to comply with a local seismic safety ordinance?

ANSWER 2: Yes. Although neither the constitutional amendment nor the statute are explicit on this point, we feel that any ambiguity should be resolved in favor of the property owner. The 15-year exclusion begins with the date the seismic-related reconstruction commences. Construction in progress on the lien date should be excluded from reappraisal as new construction. Thus, the rebuilding of the walls of an old brick building would be excluded from reappraisal when in progress on March 1, 1985, and also for 14 more years following completion in January 1986. The 15-year exclusion would be applied first to the 1985-86 tax roll, since the reconstruction would ordinarily be subject to assessment on that roll as partially complete new construction; and then to the next 14 regular tax rolls prepared according to Section 601 of the Revenue and Taxation Code.

It is important that the property owner establish to the assessor's satisfaction that the work in progress is in fact required to comply with a local seismic safety ordinance, since only such work can be excluded. If the governing body will not issue a certificate of compliance to the property owner until the reconstruction is complete, he or she can still provide evidence to the assessor that the work is required by showing the original order to comply sent to him or her by the local agency and also a copy of the building permit authorizing the reconstruction or improvement of the building. This interim documentation would meet the statutory requirement.

QUESTION 3: A building that has been reconstructed has received the exclusion from reappraisal. In the eighth year of this exclusion, the entire property changes ownership. What is the proper assessment procedure?

ANSWER 3: The entire property, including the previously excluded portion of new construction, must be reappraised at its current full cash value as of the date of the change in ownership, and a supplemental assessment must be enrolled. The current full cash value becomes the base-year value of the real property.

QUESTION 4: Would the late filing by the property owner of a certificate of compliance entitle him to partial relief under Section 70(d)?

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ANSWER 4: Lacking legislative clarification, we believe that Section 70(d)(3) is absolute: the filing after April 15 of a certificate of compliance would not qualify a structure for the benefits of this section. There is no express language permitting late filing or partial exclusion, and we therefore conclude that the Legislature did not intend to grant relief under this circumstance. This applies equally to construction in progress on the lien date and to qualifying reconstruction completed by that date.

Copies of SCA 14 and SB 521 are enclosed. Please direct your questions about them to our Technical Services Section at (916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

VW:wpc
Enclosures
AL-14-1814A